

REMARKS

The application has been amended and is believed to be in condition for allowance.

The specification has been amended to add section headings and address formal matters.

Applicants acknowledge with appreciation the indication that claim 5 was directed to allowable subject matter.

In reliance thereupon, independent claim 1 has been amended to include the recitations of allowable claim 5 and intermediate claim 4. Similarly, independent claim 17 has been amended to include the recitations of allowable claim 5 and intermediate claim 4.

In view of these amendments, claims 1 and 17 are believed to be directed to allowable subject matter and their allowance is therefore solicited.

The Official Action rejected certain of the claims under §112, second paragraph, as being indefinite.

Having considered the formal objections made by the Official Action, each of the rejected claims have been amended so as to remedy the stated basis of rejection. Accordingly, withdrawal of the indefiniteness rejection is solicited.

Claims 2-9 were objected to due to informalities. These claims have been amended so as to remedy the stated basis of objection.

Claims 1-4, 6-10 and 14-17 were rejected as anticipated by NEDERLOF 5,590,118.

Claims 11-13 were rejected as obvious over NEDERLOF in view of VITERBI ("Approximate Analysis...").

Claim 11 has been amended to include the recitations previously found in claim 13.

Applicants have carefully studied the obviousness rejection and believe that it is not viable for the reasons outlined below.

NEDERLOF describes a method for rerouting a data stream previously routed via route through a switching network which has now failed. The method includes the steps of detecting the failure on a link between a first and a second switching node in one of these switching nodes and transmitting a request message from one of said switching nodes to one of the connected nodes. NEDERLOF teaches sending a signaling signal (see column 10, lines 50-59), but fails to disclose that the fourth network node device determines whether it is responsible for setting up the second data link or not on the basis of a Bernoulli experiment, taking into account the distance between the fourth network node device and a further network node device, particularly the first and/or second network device within the Bernoulli experiment.

The Official Action additionally argues that VITERBI discloses a Bernoulli experiment for a node of an "arbitrary" network topology, where "packets" are routed along the path of

minimum hop counts for evaluating distributed processing and performance of the network as viewed from the fourth node; wherein the experiment considers the links connected to the node and the distance between the node and other nodes (see page 879, abstract and section 1, lines 1-8 and page 887, section D line 1 to page 888, section conclusion, line 11, including table 8 and figure 9).

Therefore, in the Official Action's view, one skilled in the art at the time of the invention having the disclosure of NEDERLOF in mind and following the teaching of the Bernoulli experiment would end up without an inventive contribution--at the subject matter claimed within amended claim 11.

In fact, Bernoulli fails to teach applying "a packet based routing algorithm" for "a connection based rerouting procedure" according to a disturbance within an optical communication network. Bernoulli's experiment deals with the routing of "packets" in a time-synchronous packet network, and not all with a rerouting of data connections within an optical communication network. Therefore, the disclosure of VITERBI is teaching away from the subject matter of amended claim 11.

Therefore, the subject matter of amended claim 11 is new and also non-obvious. So the subject matter of amended claim 11 is patentable over the combination of NEDERLOF and VITERBI.

Absent a teaching of all of the features of the invention as recited by amended claim 11, the claim should be

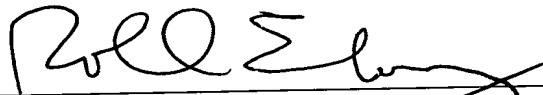
allowed. Accordingly, reconsideration and allowance of claim 11 and the claims depending therefrom, are respectfully requested.

Applicants believe that the present application is in condition for allowance and an early indication of the same is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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